

# **Exhibit A**

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|--------------------------|---|
| Document title:          | Contributor Terms of Service   Shutterstock   |
| Capture URL:             | <a href="https://submit.shutterstock.com/legal/terms?language=en">https://submit.shutterstock.com/legal/terms?language=en</a> |
| Page loaded at (UTC):    | Thu, 28 Apr 2022 22:18:57 GMT   |
| Capture timestamp (UTC): | Thu, 28 Apr 2022 22:18:59 GMT   |
| Capture tool:            | 2.37.0  |
| Collection server IP:    | 54.174.78.137   |
| Browser engine:          | Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/93.0.4577.0 Safari/537.36             |
| Operating system:        | linux x64 (Node v14.17.0)   |
| PDF length:              | 11  |
| Capture ID:              | 61BaPFqjaRSqwouMvRXDH7  |
| User:                    | msk-general   |

## Terms of Service

Shutterstock, Inc., and, where the context requires, its affiliates ("Shutterstock") operates a global marketplace for stock media. Shutterstock's customers pay a fee to license content from the Shutterstock websites (collectively, "Shutterstock Websites").

The following Terms of Service ("TOS") is a legally binding, non-exclusive agreement between you and Shutterstock. Please read the TOS carefully and be sure you understand it fully. The TOS describes and controls your legal relationship with Shutterstock, the rights you are granting to Shutterstock in any photographs, images, vectors, moving images, animations, films, videos, audiovisual works or other media together with any associated keywords, metadata and/or titles submitted by you to Shutterstock (collectively, "Content"), and the uses Shutterstock may make of the Content.

The TOS also includes a binding arbitration agreement that requires arbitration of covered disputes instead of litigation by court or jury trial.

The following is intended to convey the general scope of each term, and does not replace the TOS. Your rights and obligations are controlled solely by the TOS.

By submitting content to Shutterstock, you agree to all the terms in this agreement.

### [Which Terms Apply to Me?](#)

Determine which Terms of Service apply to you. You can see the [previous terms of service here](#).

## 1. Overview

- a. By submitting any Content to Shutterstock, you grant to Shutterstock a worldwide, sublicensable, non-exclusive right and license to index, analyze, categorize, archive reproduce, prepare derivative works incorporating, publicly display, sell, advertise and market, any Content uploaded by you and accepted by Shutterstock for any reasonable business purpose, including but not limited to the distribution of your Content to Shutterstock customers, to optimize the performance and operation of Shutterstock's platform and services, and to develop new features and products. You also give permission to Shutterstock to add, modify or remove information related to your Content in order to manage and license such Content.
- b. You grant Shutterstock a worldwide, non-exclusive right to use your name, display name and Content in connection with Shutterstock's marketing and promotional activities without the payment of any compensation to you. Shutterstock, in the exercise of its discretion, may refrain from any or all of the foregoing without any liability to you.
- c. Shutterstock shall have the right, but not the obligation, to license all Content through any of Shutterstock's brands and platforms to its customers for use in perpetuity in accordance with license agreements entered into by Shutterstock, including but not limited to Shutterstock, Inc. Terms of Service License Agreements (collectively, "Licenses").

You are granting Shutterstock the non-exclusive right to license and use your submitted content.

## 2. Ownership of Content

The copyrights in all Content remain with the copyright owner, and nothing in the TOS shall be construed as a transfer of copyright to Shutterstock, subject to the licenses granted to Shutterstock and Shutterstock's sublicensees. However, by submitting Content to Shutterstock, you expressly waive any artists' authorship rights or any droit moral that you would otherwise have under the laws of the State of New York, United States Copyright Act or similar laws of any jurisdiction, so that customers may use your Content in accordance with the Licenses issued by Shutterstock.

You always retain ownership in and to your content.

## 3. Releases

- a. You agree to provide valid and accurate model releases for all Content you contribute to Shutterstock that, in Shutterstock's judgment, contains an identifiable face or identifiable human figure or other identifiable attribute including, without limitation, voice, appearance, or likeness. You also agree to provide valid and accurate property releases to Shutterstock for all Content that requires such releases, which determination shall be made in Shutterstock's sole discretion. All releases shall be electronically delivered to Shutterstock with the Content. Content without a release that depicts an identifiable person and/or requires a property release may be accepted for "Editorial Use Only" by Shutterstock in its sole discretion.

Some content you submit may require [model releases](#) and/or [property releases](#), which you are responsible for providing.

- a. You agree to provide valid and accurate model releases for all Content you contribute to Shutterstock that, in Shutterstock's judgment, contains an identifiable face or identifiable human figure or other identifiable attribute including, without limitation, voice, appearance, or likeness. You also agree to provide valid and accurate property releases to Shutterstock for all Content that requires such releases, which determination shall be made in Shutterstock's sole discretion. All releases shall be electronically delivered to Shutterstock with the Content. Content without a release that depicts an identifiable person and/or requires a property release may be accepted for "Editorial Use Only" by Shutterstock in its sole discretion.
- b. You agree that you are solely responsible for retaining all original releases and maintaining complete and accurate release records.
- c. The submission of falsified, inaccurate or otherwise defective releases is a material breach of the TOS. Releases submitted by you shall not contain any terms inconsistent with the TOS or contain any restrictions not contained in the Shutterstock releases located at the [Shutterstock Legal Center](#).
- d. You agree that Shutterstock may furnish copies of releases to customers, as necessary, in order to respond to any potential or actual legal action, to comply with applicable laws, regulations, and/or union reporting requirements, or any other reason Shutterstock deems reasonable in its sole discretion.
- e. You agree that all Content submitted by you for "Editorial Use Only" shall faithfully depict the subject and be accompanied by accurate titles and keywords. You also understand and agree that certain "Editorial Use Only" Content may require an attestation of authority from a third party granting Contributor's right to record such Content (a "Credential"). You will provide Shutterstock evidence of such Credentials upon request.
- f. You agree that Shutterstock may permit Content designated "Editorial Use Only" to be used in a non-Editorial manner at Shutterstock's sole discretion (e.g., Shutterstock may permit a customer to use Content designated "Editorial Use Only" for commercial purposes where the customer obtains the necessary rights and clearances for such use).

Some content you submit may require [model releases](#) and/or [property releases](#), which you are responsible for providing.

To download model and property releases, please see [Legal Releases](#).

If you submit content for "Editorial Use Only", it [may require credentials](#).

Shutterstock may license Editorial Use Only content for commercial purposes in its discretion.

#### 4. Accounts

- a. You agree to provide true and complete information relating to your Shutterstock contributor account and Content, including but not limited to information relating to the date, location and equipment used in connection with creation of the Content;
- b. By opening a Shutterstock account, you express your consent to the Shutterstock Privacy Policy, which is incorporated herein by reference and governs Shutterstock's collection, processing, storage and transfer of the Content and data submitted by you, including data relating to you, your account, your Content or other information related to the foregoing ("Personal Data"). You agree that your Personal Data may be collected, processed, stored, and transferred to jurisdictions other than your home jurisdiction.
- c. Shutterstock has the right to refuse to establish an account or to close any existing account, for fraud, intellectual property infringement, violation of a third party's rights including those of privacy or publicity, artificially inflating downloads, submission of material that is obscene in nature, violent or that might be construed as defamatory, failure to comply with Shutterstock's guidelines as may be amended from time to time, for any breach of the terms of this or any other agreement that you have with shutterstock, or for convenience.
- d. Shutterstock will terminate your account no later than ninety (90) days following its receipt of a written request from you. For the sake of clarity, before the termination of your account is made effective by Shutterstock, your Content will remain available for license by Shutterstock customers. Notwithstanding the foregoing, in the event that Shutterstock materially modifies the TOS and does not provide you with prior notice, you may terminate your account within thirty (30) days of the effective date of such modifications.
- e. Following the removal of any item of Content from Shutterstock, Shutterstock may amend any existing licenses to such Content for a reasonable period thereafter, for instance to support customers who may have previously activated a "comp" license.
- f. If your account is terminated for any reason, you must obtain written authorization from Shutterstock prior to establishing another account. You may not have more than one active contributor account at any time without the written consent of Shutterstock in each instance.
- g. You may not submit identical Content to more than one account without the prior written consent of Shutterstock.

Please make sure that information relating to your Shutterstock account and content is true and complete.

We may close your account if you are doing something wrong. You can request that we close your account at any time as well, which we will do within 90 days.

You may not hold more than one Shutterstock account, or share content with another Shutterstock account, without permission.

#### 5. Content

- a. Shutterstock has the right to refuse to accept or to remove Content from the Shutterstock Websites for any reason. Shutterstock will remove Content if Shutterstock believes that such Content may (in Shutterstock's sole discretion) subject Shutterstock or any of its officers, managers, directors or employees to legal action or if the Content violates the TOS.



## 5. Content

- a. Shutterstock has the right to refuse to accept or to remove Content from the Shutterstock Websites for any reason. Shutterstock will remove Content if Shutterstock believes that such Content may (in Shutterstock's sole discretion) subject Shutterstock or any of its officers, managers, directors or employees to legal action or if the Content violates the TOS. Notwithstanding the foregoing and subject to Shutterstock's discretion, Content removed by you or opted out by you for any reason may be available for license to those customers that previously downloaded "comp" versions of the removed Content.
- b. Shutterstock shall use reasonable efforts to cause Content removed from or opted out from Shutterstock Websites to be removed from the websites of any Shutterstock affiliates or partners (including co-branded websites) within ninety (90) days of the removal of the subject Content from the Shutterstock Websites.
- c. Licenses issued by Shutterstock for any Content that is later removed from the Shutterstock Websites will remain in full force and effect in perpetuity.
- d. Shutterstock will not knowingly license model-released Content for use in contexts that are pornographic, defamatory or deceptive, or in a manner that could be considered libelous, obscene, or illegal in nature.
- e. Shutterstock may advertise and/or market your Content on social media platforms including Facebook, Instagram, Tumblr, Twitter, and similar sites and the applications related thereto.

If your content is removed from Shutterstock, existing licenses for previously downloaded content will remain in effect.

Your content may be marketed on social media platforms by Shutterstock.

## 6. Content Submission Guidelines

You agree to follow [Shutterstock's Contributor Guidelines](#), which are deemed incorporated herein and made a part hereof by this reference. The submission of Content that does not adhere to [Shutterstock's Contributor Guidelines](#) may result in the termination of your Shutterstock account.

Please follow [Shutterstock's Contributor Guidelines](#) when submitting content to Shutterstock.

## 7. Forum Guidelines

You agree to follow [Shutterstock's Forum Guidelines](#). Any activity by you on Shutterstock's forum (please see "Forum for Contributors") which does not adhere to [Shutterstock's Forum Guidelines](#) may result in the termination of your Shutterstock account. The terms of [Shutterstock's Forum Guidelines](#) are deemed incorporated into and made a part of the TOS by this reference.

Please follow [Shutterstock's Forum Guidelines](#) when participating in the Shutterstock forum.

## 8. Compensation

- a. Shutterstock shall pay you a royalty for each unique download of Content for which Shutterstock receives payment. The current royalty rates are set forth on the [Earnings Schedule](#), which schedule is incorporated herein by reference. If a customer downloads the same item of Content more than once, you will be paid once only. Please note that there may be a reporting delay for customer downloads reflected in your Shutterstock contributor account.
- b. Royalty payments and accompanying statements will be issued monthly, on or about the 15th day of each month, for the previous month's downloads. Payments are automatic and do not need to be requested.
- c. There is a minimum payout rate per accounting period of: Thirty Five US Dollars (USD 35.00) (the "Payout Minimum"). If during an accounting period, you haven't reached the Payout Minimum or provided Shutterstock a valid electronic payment account, your compensation will be rolled over into the next accounting period. If you cancel your account prior to accrued earnings in your royalty account reaching the applicable Payout Minimum, you thereby forfeit such royalties. For clarity, you shall have no right to any earnings accrued following the disabling of your contributor account or until such time as the applicable Payout Minimum threshold is reached.
- d. If your account is terminated for a breach of the material terms of the TOS, in addition to its other rights at law or in equity, Shutterstock shall have the right to retain any royalties and/or other compensation otherwise payable to you hereunder as liquidated damages.
- e. You may not use the Shutterstock service as a means of transferring your Content to a single customer or to a small number of customers nor may you download your own Content. Such activity constitutes a material breach of the TOS. If you engage in such activity, Shutterstock

We will pay you a royalty for each download of content for which Shutterstock receives payment.

The current royalty rates can be found in the [Earnings Schedule](#).

down payment of earnings; you shall have no right to any earnings accrued following the disabling of your contributor account or until such time as the applicable Payout Minimum threshold is reached.

- d. If your account is terminated for a breach of the material terms of the TOS, in addition to its other rights at law or in equity, Shutterstock shall have the right to retain any royalties and/or other compensation otherwise payable to you hereunder as liquidated damages.
- e. You may not use the Shutterstock service as a means of transferring your Content to a single customer or to a small number of customers nor may you download your own Content. Such activity constitutes a material breach of the TOS. If you engage in such activity, Shutterstock may avail itself of all rights it has hereunder, including but not limited to terminating your account and/or retaining any accrued but unpaid royalties.
- f. Shutterstock may recoup royalties paid to you in connection with refunds issued by Shutterstock by deducting applicable royalties credited to your account. Credit card chargebacks will be treated in the same manner as refunded subscriptions.
- g. If Shutterstock makes an overpayment of royalties or other compensation to you for any reason, Shutterstock shall have the right to deduct the amount of such overpayment from your accrued royalties or to demand the immediate repayment of such overpaid royalties or other compensation.
- h. Royalty payments based on a percentage of sales price will be based on the sales price actually received by Shutterstock and calculated after making any necessary deductions for any refunds, cancellations, previous overpayments, and any taxes, levies, imposts, duties, currency exchange costs, or other similar charges that are imposed on the payments received by Shutterstock. If any law, government ruling or any other restriction affects the amount of the payments which Shutterstock's licensee can remit to Shutterstock, Shutterstock may deduct from Contributor's royalties an amount proportionate to the reduction in such licensee's remittances to Shutterstock.
- i. If you receive your payments through an online payment processing service (e.g., PayPal, Payoneer or Skrill,) you may not share your online payment processing service account with another Shutterstock contributor. Shutterstock's obligation to make payment to you hereunder shall be fulfilled by making payment to the online payment processing service designated by you.
- j. For clarity, when and where appropriate Shutterstock may assign its rights and obligations regarding Contributor royalties hereunder to related global legal entities, and confirms that the Contributor's rights to such royalties will not be impaired by any such assignment.

Please do not use your account to download your own content, or to transfer content to customers. Also, you may not share your payment processing account (e.g., PayPal, Payoneer, Skrill) with another Shutterstock contributor.

## 9. Referral Programs

- a. If you refer other content contributors to Shutterstock and the contributor identifies you to Shutterstock as the referring party pursuant to Shutterstock's referral program, you will be paid a royalty as set forth on the [Earnings Schedule](#). Any referrer royalties credited to your account from a subscription that is later refunded or charged back to Shutterstock will be deemed to be an overpayment of royalties to you. Shutterstock reserves the right to withhold payments due to you under the Shutterstock referral program for up to 90 days from the date the referred contributor establishes its Shutterstock account.
- b. If you refer a new customer to Shutterstock, and that customer makes his or her first purchase of a single-user, self-service image and footage subscription or pack product, Shutterstock will credit your royalty account as specified on the Earnings Schedule. You will not receive a royalty for any renewals or subsequent purchases by the customer you referred. Any referrer royalties credited to your account from a subscription that is later refunded or charged back to Shutterstock will be deemed to be an overpayment of royalties to you. Shutterstock reserves the right to withhold payments due to you under the Shutterstock referral program for up to 90 days from the date of the customer's eligible first purchase.

You may earn more by referring contributors and customers who identify you as a referral. Please see the [Earnings Schedule](#) for more information.

## 10. Taxes

- a. If you are a "US Person" as said term is defined by the Internal Revenue Service ("IRS"), a current, signed and completed IRS Form W-9 must be submitted to Shutterstock for Shutterstock to make payments to you. A W-9 is used to certify under penalty of perjury that your tax identification number is correct and that you are not subject to backup withholding taxes.
- b. If you are a "Foreign Person" as said term is defined by the IRS, a current, signed, completed and appropriate IRS form W-8 must be submitted to Shutterstock in order for Shutterstock to make payments to you. Foreign persons might be subject to U.S. income tax on income they receive from U.S. sources and Shutterstock may be required to withhold appropriate taxes thereon, but you may be eligible to claim a reduced rate of, or exemption from, withholding as a resident of a foreign country with which the United States has an income tax treaty.

If you are a U.S. person, you must submit a W-9 form to be paid.

If you are a non-U.S. person, you must submit the appropriate W-8 form to be paid.



your tax identification number is correct and that you are not subject to backup withholding taxes.

- b. If you are a "Foreign Person" as said term is defined by the IRS, a current, signed, completed and appropriate IRS form W-8 must be submitted to Shutterstock in order for Shutterstock to make payments to you. Foreign persons might be subject to U.S. income tax on income they receive from U.S. sources and Shutterstock may be required to withhold appropriate taxes thereon, but you may be eligible to claim a reduced rate of, or exemption from, withholding as a resident of a foreign country with which the United States has an income tax treaty.
- c. If your status as defined in "a" or "b" above, or any information you provided in the W-8 or W-9 Forms as applicable changes, you are obligated to promptly notify Shutterstock and until we receive valid notice, we will continue to rely on the information in our files in determining your tax status and the applicability of US withholding tax.
- d. For more information, please see the [Tax Center](#).

If you are a non-U.S. person, you must submit the appropriate W-8 form to be paid.

## 11. Shutterstock Trademarks

- a. For the purposes of the TOS, the term, "Trademark(s)" means all common law or registered trademarks, logos, service marks, trade names, Internet domain names, or other indications of origin now or in the future used by Shutterstock.
- b. Nothing contained herein grants or shall be construed to grant you any rights to use any Shutterstock Trademarks.
- c. You agree that you will not use Shutterstock's Trademarks in any manner that might tarnish, disparage, or reflect adversely on such Trademarks or Shutterstock. Nor will you contest or otherwise challenge (e.g., in any legal action or otherwise), or assist or encourage any other person or entity to contest or challenge, the validity of any of Shutterstock Trademarks or the Trademark rights claimed by Shutterstock.
- d. You agree that you will not use any Shutterstock Trademarks or any variant thereof including misspellings) as a domain name or as part of a domain name regardless of the top-level domain, as part of a blog name or social media handle or channel, or as a metatag, keyword, or any other type of programming code or data.
- e. You may not at any time, adopt or use, without Shutterstock's prior written consent any word or mark which is similar to or likely to be confused with Shutterstock's Trademarks.
- f. The look and feel of the Shutterstock Websites, including all page headers, custom graphics, button icons, and scripts, is the trade dress and/or trademark or service mark of Shutterstock and may not be copied, imitated or used, in whole or in part, without the prior written consent of Shutterstock.
- g. You may not frame or hotlink to the Shutterstock Websites or to any item of Content other than your own without the prior written consent of Shutterstock.
- h. All rights in and to Shutterstock's Trademarks not expressly granted to you hereunder are reserved by Shutterstock.

You may not use Shutterstock's trademarks in any form without permission.

Please do not copy, frame, or hotlink to the Shutterstock websites without permission.

## 12. Copyright Infringement Claims

- a. You hereby grant Shutterstock the right and authority to take such steps as Shutterstock deems commercially reasonable to protect Shutterstock's rights in the Content.
- b. In the event that you believe that a Shutterstock license to your Content is being misused, you shall take no action against a Shutterstock licensee without providing notice of such misuse to Shutterstock and receiving Shutterstock's prior written consent to such action.
- c. If you would like to submit a notification of alleged infringement for Content on the Shutterstock site, please send us a DMCA takedown notice pursuant to our [DMCA Policy](#).
- d. While Shutterstock takes commercially reasonable steps to ensure that the rights of its Contributors are not violated by customers or other parties, Shutterstock has no obligation to pursue legal action against any alleged infringer of any of your rights in and to any Content.
- e. In the event Shutterstock receives a complaint about your Content, Shutterstock may suspend access to such Content and terminate your account, pursuant to our [DMCA Policy](#).
- f. If you knowingly or repeatedly submit false copyright infringement claims and takedown notices to Shutterstock, Shutterstock reserves the right to disable or delete your account with no further notice to you.

We respect your rights and may take action to protect your content. If you suspect potential misuse of your content by a Shutterstock customer, please contact us with the details before taking any action directly.

## 13. Representations and Warranties

You represent and warrant that:

- a. you have the full right, power and authority to enter into this agreement and to fully perform all

You agree that you are legally able to enter into this agreement,

to Shutterstock, Shutterstock reserves the right to disable or delete your account with no further notice to you.

### 13. Representations and Warranties

You represent and warrant that:

- a. you have the full right, power and authority to enter into this agreement and to fully perform all of your obligations hereunder;
- b. you are under no legal disability or contractual restriction that prevents you from entering into this agreement;
- c. you are at least 18 years of age;
- d. the Content and all parts thereof are owned and/or controlled by you, unencumbered and original works and are capable of copyright protection in all countries where copyright or similar protection is available;
- e. if the Content contains sound recordings, music and/or lyrics, you own or have acquired all rights to use such sound recordings, music and/or lyrics from the owner of the copyright in such sound recordings, music and/or lyrics.
- f. if the Content consists in whole or in part of design elements, fonts, clipart, sprites, vectors, brush tools and the like that are included in design programs (e.g., Photoshop, Daz, Illustrator), the end user license agreement, terms of service or the equivalent license held by you permits you to incorporate such elements in Content created by you, and to license such Content to Shutterstock for the purposes set forth herein.
- g. the Content is neither obscene nor defamatory, does not violate any applicable laws and/or regulations, and does not infringe the copyright or any other rights of any third party, including, without limitation, trademark rights and the rights of privacy and publicity.
- h. you possess valid Credentials for each item of "Editorial Use Only" Content for which credentials may be required.
- i. there is no suit action or claim or other legal or administrative proceeding now pending or threatened which might directly or indirectly affect the Content or which might in any way impair the rights granted by you hereunder; and
- j. you will not transmit unsolicited emails or engage in so-called "spamming" to publicize or promote your relationship with Shutterstock or the sale of your Content - nor will you falsely advertise or deceptively publicize your relationship with Shutterstock in a manner that mischaracterizes or implies sponsorship, endorsement, employment or any other affiliation that exceeds the actual scope of your relationship to Shutterstock, nor will you use Shutterstock's Trademarks through the use of search engine advertising and/or marketing.

You acknowledge that such advertising and/or marketing might infringe on the intellectual property rights of Shutterstock and/or third parties. In addition to its other rights and/or remedies under the TOS, Shutterstock shall be under no obligation to pay you any referral fees or other compensation if you violate the terms of this subparagraph.

Shutterstock represents and warrants that:

- k. it has the power and authority to enter into this agreement and to fully perform all of its obligations hereunder; and
- l. upon making or learning of any claim that is inconsistent with any of the warranties or representations made by you, Shutterstock may send you written notice of such claim, using the email address provided by you to Shutterstock, specifying the details of the claim as then known to Shutterstock.
  - i. Pending the determination of such claim, Shutterstock may withhold from royalties and/or other compensation due to you hereunder, such sums as are reasonably related to the probable value of the claim as determined by Shutterstock.
  - ii. You will cooperate fully with Shutterstock in the defense of any such claims. You may participate in the defense of any claim through counsel of your selection at your own expense.

You agree that you are legally able to enter into this agreement, and that none of the content you submit will violate any laws or infringe any third party's rights.

You may not publicize your portfolio in a way that falsifies the nature of your relationship with Shutterstock.

### 14. Confidentiality

By submitting any Content to Shutterstock, you acknowledge that you will acquire certain confidential and proprietary information, including but not limited to royalty rates, royalty payments and earnings data (collectively, "Confidential Information"). You agree to keep Confidential Information confidential and to not disclose Confidential Information to any third party other than representatives, agents, attorneys, accountants, auditors and advisors with a bona fide need to know, who shall first agree to keep the terms confidential.

Please do not disclose confidential information about your Shutterstock account.

### 15. Indemnification



By submitting any Content to Shutterstock, you acknowledge that you will acquire certain confidential and proprietary information, including but not limited to royalty rates, royalty payments and earnings data (collectively, "Confidential Information"). You agree to keep Confidential Information confidential and to not disclose Confidential Information to any third party other than representatives, agents, attorneys, accountants, auditors and advisors with a bona fide need to know, who shall first agree to keep the terms confidential.

Please do not disclose confidential information about your Shutterstock account.

## 15. Indemnification

- a. You agree to indemnify and hold Shutterstock, its subsidiaries, affiliates, directors, officers, and employees harmless from and against any and all claims, losses, damages, costs and expenses (including reasonable attorneys' fees and disbursements) arising out of any breach or claimed breach of any of your representations or warranties or any of your obligations under the TOS. You will only be liable for any incidental, consequential, or special damages in the case of third party claims.
- b. Shutterstock shall indemnify and hold you harmless from and against any and all claims, losses, damages, costs and expenses (including reasonable attorneys' fees and disbursements) arising out of any breach or claimed breach of any of Shutterstock's representations or warranties or any of Shutterstock's obligations pursuant to the TOS. Shutterstock will only be liable for incidental, consequential, or special damages in the case of third party claims.
- c. If Shutterstock is the indemnifying party, it shall defend such claims, control litigation, and settle claims in its sole discretion. If a settlement creates a financial obligation for you, it shall require your written consent, which you will not unreasonably withhold or delay. If you are the indemnifying party, Shutterstock shall have the right but not the obligation to assume control of any litigation.
- d. When indemnification is sought due to a legal claim by a third party, the indemnified party shall:
  - i. promptly notify the indemnifying party of the claim. If the indemnified party does not notify the indemnifying party, the indemnifying party must still meet its indemnification obligations under the TOS, unless the failure to notify causes material prejudice to the indemnifying party; and
  - ii. give the indemnifying party the opportunity to defend the claim with counsel reasonably acceptable to the indemnified party. Counsel that is acceptable to indemnifying party's errors and omissions insurance carrier shall be deemed to be acceptable to indemnified party. The indemnified party agrees to cooperate with the indemnifying party in the defense of any claim, at the indemnified party's expense. If for any reason the indemnifying party does not elect to or fails to defend a claim, the indemnified party may do so at the indemnifying party's sole expense.

If a claim arises due to your breach of your representations in this agreement, you agree to cover Shutterstock for its loss. If a claim arises due to Shutterstock's breach of its representations in this agreement, Shutterstock agrees to cover you for your loss.

The party seeking indemnification agrees to notify the other party as soon as possible.

## 16. Arbitration

- a. This "Arbitration Agreement", which is governed by the Federal Arbitration Act (9 U.S.C. § 1 et seq.), is intended to be as broad as legally permissible, and, except as it otherwise provides, applies to all claims or controversies, past, present, or future, that otherwise would be resolved in a court of law or before a forum other than arbitration, and applies to any claim Shutterstock has against you or any claim you have against Shutterstock, and/or its agents and employees—all of whom or which may enforce this Arbitration Agreement. All disputes covered by this Arbitration Agreement will be resolved by final and binding arbitration and not by way of court or jury trial.
- b. Any controversy or claim arising out of or relating to this TOS, or the breach thereof, and/or the Shutterstock Websites shall be settled by binding individual (not class) arbitration administered under the then current Commercial Arbitration Rules of the American Arbitration Association ("AAA Rules") (the AAA Rules are available via the internet at [www.adr.org/commercial](http://www.adr.org/commercial) or by using a service such as Google to search for "AAA Commercial Arbitration Rules"); provided however, that if there is a conflict between the AAA Rules and this Arbitration Agreement, this Arbitration Agreement shall govern.
- c. As stated below, the relationship of the parties is that of independent contractor. There is no relationship of partnership, joint venture, employment, franchise or agency created hereby between the parties. To the extent, however, you allege any employment relationship between you and Shutterstock, any such claim or dispute arising out of or related to such claim, including without limitation, claims or disputes arising out of or related to your application and selection for alleged employment, alleged employment, and/or termination of alleged employment shall also be subject to arbitration and is covered under this Arbitration Agreement, and including without limitation, statutory and common law claims for wages, overtime and other compensation or monies due, and claims for discrimination, harassment or retaliation. Any

You and Shutterstock agree to resolve any claims through binding individual arbitration and not through litigation.

- c. As stated below, the relationship of the parties is that of independent contractor. There is no relationship of partnership, joint venture, employment, franchise or agency created hereby between the parties. To the extent, however, you allege any employment relationship between you and Shutterstock, any such claim or dispute arising out of or related to such claim, including without limitation, claims or disputes arising out of or related to your application and selection for alleged employment, alleged employment, and/or termination of alleged employment shall also be subject to arbitration and is covered under this Arbitration Agreement, and including without limitation, statutory and common law claims for wages, overtime and other compensation or monies due, and claims for discrimination, harassment, or retaliation. Any claims alleging an employment relationship shall be administered by the American Arbitration Association, and except as provided in this Arbitration Agreement, will be under the then current Employment Arbitration Rules of the AAA ("AAA Employment Rules") (the AAA Employment Rules are available via the internet at [www.adr.org/employment](http://www.adr.org/employment) or by using a service such as Google to search for "AAA Employment Arbitration Rules"); provided however, that if there is a conflict between the AAA Employment Rules and this Arbitration Agreement, this Agreement shall govern.
- d. The arbitrator, and not any federal, state, or local court or agency, shall have exclusive authority to resolve any dispute relating to the validity, applicability, enforceability, unconscionability or waiver of this Arbitration Agreement, including, but not limited to any claim that all or any part of this Agreement is void or voidable. However, the preceding sentence does not apply to the Class Action Waiver, and any dispute relating to the validity, applicability, enforceability, unconscionability or waiver of the Class Action Waiver may only be decided by a court of competent jurisdiction and not by an arbitrator.
- e. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof or having jurisdiction over the relevant party or its assets. Unless prohibited by applicable law, the place of arbitration shall be the state and county of New York; except for claims alleging and or arising out of or related to any alleged employment relationship, which shall be conducted in or near the location and in the state where you reside. There shall be one arbitrator selected under the applicable AAA Rules. Unless prohibited by applicable law or the applicable AAA Rules, each party shall bear its own costs in the arbitration, and any disputes regarding apportionment of fees and costs shall be decided by the arbitrator. This Arbitration Agreement does not apply to any disputes that an applicable federal statute expressly states cannot be arbitrated or subject to a pre-dispute arbitration agreement. Both parties agree that the following claims are exceptions to the Arbitration Agreement and will be brought in a judicial proceeding in a court of competent jurisdiction: (i) any claim related to actual or threatened infringement, misappropriation or violation of a party's copyrights, trademarks, trade secrets, patents, or other intellectual property rights; and (ii) any claim seeking emergency injunctive relief based on exigent circumstances (e.g., imminent danger or commission of a crime, hacking, cyber-attack). This arbitration provision will survive termination of this TOS.
- f. You and Shutterstock agree to resolve any claims through binding individual arbitration and not through litigation.
- g. CLASS ACTION WAIVER. YOU AND SHUTTERSTOCK AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS, COLLECTIVE, OR REPRESENTATIVE ACTION. Unless both you and Shutterstock agree, no arbitrator or judge may consolidate more than one person's claims or otherwise preside over any form of a representative or class proceeding. The arbitrator may award injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claim. You and Shutterstock acknowledge and agree that we are each waiving the right to a trial by jury as to all arbitrable disputes under this TOS.

## 17. Electronic Communications Delivery

- a. You agree and consent to receive all communications, agreements, documents, notices and disclosures (collectively, "Communications") that Shutterstock provides in connection with your Content and your account. Communications include agreements and policies you agree to, updates to these agreements or policies, account statements, tax statements, and any other information relating to your Content and your Account. Shutterstock will provide Communications to you by posting them on the Shutterstock website or by email at the primary email address on file in your Shutterstock Contributor Account.
- b. In order to access and retain electronic Communications, you will need a computer or mobile device with an Internet connection, a Current Version (as defined hereinafter) of a web browser; a Current Version of a program that accurately reads and displays PDF files; a valid email address (your email address on file with Shutterstock in your Contributor Account); and sufficient storage space to save past Communications or an installed printer to print them. We will notify you if there are any material changes to the hardware or software needed to receive electronic Communications. "Current Version" refers to a version of the software that is currently being supported by its publisher. We reserve the right to discontinue support of a Current Version of software if, in our sole opinion, it suffers from a security flaw or other flaw that makes it unsuitable for use with Shutterstock's products and services.

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device with an Internet connection, a Current Version (as defined hereinafter) of a web browser; a Current Version of a program that accurately reads and displays PDF files; a valid email address (your email address on file with Shutterstock in your Contributor Account); and sufficient storage space to save past Communications or an installed printer to print them. We will notify you if there are any material changes to the hardware or software needed to receive electronic Communications. "Current Version" refers to a version of the software that is currently being supported by its publisher. We reserve the right to discontinue support of a Current Version of software if, in our sole opinion, it suffers from a security flaw or other flaw that makes it unsuitable for use with Shutterstock's products and services.

- c. By giving your consent you are confirming that you have access to the necessary equipment and are able to receive, open, and print or download a copy of any Communications for your records. You may print or save a copy of these Communications for your records as they may not be accessible online at a later date.
- d. You may withdraw your consent to receive Communications electronically by writing to us at "Shutterstock, Inc. Attn: Electronic Communications Delivery Policy, 350 Fifth Ave, 21st Floor, New York, NY 10118", by contacting Shutterstock Support . Your withdrawal of consent will become effective after we have had a reasonable opportunity to act upon it. After you consent to receive Communications electronically, you may withdraw your consent to receive tax forms electronically by contacting us as described above. You will continue to receive all your other Communications electronically, but we will send your Form 1099 or 1042-S tax forms to you by mail.
- e. If, after you consent to receive Communications electronically, you would like a paper copy of a Communication we previously sent you, you may request a copy within 180 days of the date we provided the Communication to you by contacting us as described above. We will send your paper copy to you by U.S. mail. In order for us to send you paper copies, you must have a current street address on file in your Contributor Account. If you request paper copies, you understand and agree that Shutterstock may charge you a Records Request Fee for each Communication. The Records Request Fee will not be charged if you request a Form 1099 or 1042-S in paper form.
- f. It is your responsibility to keep your primary email address up to date so that Shutterstock can communicate with you electronically. You understand and agree that if Shutterstock sends you an electronic Communication but you do not receive it because your primary email address on file is incorrect, out of date, blocked by your service provider, or you are otherwise unable to receive electronic Communications, Shutterstock will be deemed to have provided the Communication to you. You can update your primary email address or street address at any time by updating the information on file in your "[Contributor Account Settings](#)".

## 18. Miscellaneous

- a. The relationship of the parties is that of independent contractors. There is no relationship of partnership, joint venture, employment, franchise or agency created hereby between the parties.
- b. The TOS contains the entire understanding of the parties with respect to the subject matter covered herein and supersedes any prior agreements with respect to such subject matter.
- c. The validity, interpretation and enforcement of the TOS, matters arising out of or related to the TOS or its making, performance or breach, and related matters shall be governed by the internal laws of the State of New York (without reference to choice of law doctrine). Subject to the Arbitration Agreement above, any legal action or proceeding concerning the validity, interpretation and enforcement of the TOS, matters arising out of or related to this TOS or its making, performance or breach, or related matters shall be brought exclusively in the courts of the State of New York in the County of New York or of the United States of America for the Southern District of New York, and all parties consent to the exclusive jurisdiction of those courts, waiving any objection to the propriety or convenience of such venues.
- d. If any individual term of the TOS is found to be invalid or unenforceable by any legal or regulatory body of competent jurisdiction, or arbitration as applicable, such finding will be limited solely to such invalid or unenforceable part, without affecting the remaining parts of such individual term, or any other part of the TOS, so that the TOS shall otherwise remain in full force and effect. The TOS shall be binding upon and shall inure to the benefit of each party and their respective legal representatives, successors in interest and permitted assigns.
- e. Shutterstock will not be liable for any damages, including actual, indirect, special, or consequential damages arising from the submission or use of your Content, either by Shutterstock or any sublicensee thereof, or the termination of your Contributor Account. You expressly consent to all the potential uses of your content contemplated hereby, and have no right to demand any particularized compensation arising from any individual or aggregate usage.
- f. Please note that Shutterstock reserves the right to modify these terms at any time in its sole discretion, it being understood that no changes shall apply to any pending arbitration proceeding commenced or legal claims asserted prior to such change. Shutterstock will notify you of any such change by an announcement on this page, your login page, and/or by other means to provide you the opportunity to review the modifications before they become effective.

If these terms change, we will notify you. This agreement will be governed by New York law.



internal laws of the State of New York (without reference to choice of law doctrine). Subject to the Arbitration Agreement above, any legal action or proceeding concerning the validity, interpretation and enforcement of the TOS, matters arising out of or related to this TOS or its making, performance or breach, or related matters shall be brought exclusively in the courts of the State of New York in the County of New York or of the United States of America for the Southern District of New York, and all parties consent to the exclusive jurisdiction of those courts, waiving any objection to the propriety or convenience of such venues.

- d. If any individual term of the TOS is found to be invalid or unenforceable by any legal or regulatory body of competent jurisdiction, or arbitration as applicable, such finding will be limited solely to such invalid or unenforceable part, without affecting the remaining parts of such individual term, or any other part of the TOS, so that the TOS shall otherwise remain in full force and effect. The TOS shall be binding upon and shall inure to the benefit of each party and their respective legal representatives, successors in interest and permitted assigns.
- e. Shutterstock will not be liable for any damages, including actual, indirect, special, or consequential damages arising from the submission or use of your Content, either by Shutterstock or any sublicensee thereof, or the termination of your Contributor Account. You expressly consent to all the potential uses of your content contemplated hereby, and have no right to demand any particularized compensation arising from any individual or aggregate usage.
- f. Please note that Shutterstock reserves the right to modify these terms at any time in its sole discretion, it being understood that no changes shall apply to any pending arbitration proceeding commenced or legal claims asserted prior to such change. Shutterstock will notify you of any such change by an announcement on this page, your login page, and/or by other means to provide you the opportunity to review the modifications before they become effective. Modifications to these TOS will not apply retroactively. By continuing to make Content available through Shutterstock, you agree to be bound by all such changes. If you do not agree with any of the changes, please remove from Shutterstock, pursuant to the terms herein, all or that portion of your Content to which you do not wish the changes to apply.
- g. In the event that you breach any of the terms of this or any other agreement with Shutterstock, Shutterstock shall have the right to terminate your account without further notice, in addition to Shutterstock's other rights at law and/or equity.
- h. It is expressly understood and agreed that this TOS is entered into solely for the mutual benefit of the parties herein and that no benefits, rights, duties, or obligations are intended by this TOS as to third parties.

By submitting any content to Shutterstock and/or by participating in the forums, you agree to be bound by this TOS, and Shutterstock's [Website Terms of Use](#) and Shutterstock's [Privacy Statement](#), both of which are deemed incorporated herein by this reference.

Effective as of Wednesday, February 05, 2020 .

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